

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DUNCAN J. MCNEIL, III,)
)
Plaintiff)
)
v.) Civil No. 05-114-P-H
)
UNITED STATES, et al.,)
)
Defendants)

**DECISION RECOMMENDING DISMISSAL OF COMPLAINT AND ORDER
DENYING MOTION TO PROCEED IN FORMA PAUPERIS AND MOTION
FOR APPOINTMENT OF COUNSEL**

Duncan McNeil has filed a civil rights action listing the United States, the Maine United States District Court Clerk, the Maine United States Attorney, the Maine United States Marshal Service, the Maine Federal Bureau of Investigation, the Maine Internal Revenue Service, and the Maine Secret Service as defendants. McNeil, who is incarcerated in Spokane, Washington, seeks to compel the officers and agencies of the United States to do their duties. Attached to his complaint is a stipulated order on liability and damages from the United States District Court for the Eastern District of Washington concerning an action in which McNeil as plaintiff was seeking compensation from his former employer.

I conclude that this action should be dismissed forthwith pursuant to 28 U.S.C. § 1915(3)(B) as it is frivolous, fails to state a claim for which this court can grant relief, and seeks monetary damages from defendants that are immune from suit. I also

note that a search of the United States Party/Case Index reflects that McNeil has been a party in fifty-four civil actions, a recent spate of which mirror this one, see, e.g., McNeil v. United States, Civ. No.05-421-UNA (D. Del. June 22, 2005); McNeil v. United States, Civ. No. 05-1251-YK-KH (M.D. Pa. June 21, 2005); McNeil v. United States, Civ. No. 05-2919-MK (E.D. Pa. June 21, 2005); McNeil v. United States, Civ. No. 05-1669-RWT (D. Md. June 20, 2005); McNeil v. United States, Civ. No.05-3283-SAC (D. Kan. June 20, 2005); McNeil v. United States, Civ. No. 05-197-N-LMB (D. Id. June 20, 2005); McNeil v. United States, Civ. No. 05-445-LGF (W.D.N.Y. June 20, 2005); McNeil v. United States, Civ. No. 05-498 (S.D.W. Va. June 20, 2005); McNeil v. United States, Civ. No. 05-587-MEF-SRW (M.D. Ala. June 20, 2005); McNeil v. United States, Civ. No. 05-3592 (N.D. Ill. June 20, 2005); McNeil v. United States, Civ. No. 05-924-DFH-VSS (S.D. Ind. June 20, 2005); McNeil v. Brandt, Civ. No. 05-1043-RSL (W. D. Wash. June 6, 2005). I also note that it appears that McNeil has been adjudicated a vexatious litigant by the United States Bankruptcy Court for the Central District of California and the Spokane County Superior Court, and is facing an order to show cause as to why restrictions should not be placed on future court filings in the United States District Court for the Eastern District of Washington. See Order to Show Cause at 2, Civ. Nos. 04-358, 04-388, 04-422, 04-423, 04-424, 04-425 (E.D. Wa. Nov. 10, 2004). Accordingly, I recommend that the court **DISMISS** the complaint (Docket No. 1) pursuant to 28 U.S.C. § 1915(e)(2)(B).

In view of my conclusion that this complaint should immediately be dismissed, I now **DENY** the motion to proceed in forma pauperis, the motion for appointment of counsel, and all related motions (Docket No. 2).

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

June 24, 2005.

/s/Margaret J. Kravchuk
U.S. Magistrate Judge